



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,182	07/11/2001	Albert C. Lardo	56245	1162
21874	7590	08/24/2004	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			SHAY, DAVID M	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 08/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,182

Applicant(s)

LARDO ET AL.

Examiner

david shay

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004 ~~11 July 2004~~ *dm*
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-29,31-41,48-50,58 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-29,31-41,48-50,58 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This action is in response to the after final amendment filed April 20, 2004.

Claims 20, 21, 24-29, 31, 32, 37-41, 48-50, 58, and 59 are rejected under 35 U.S.C.

103(a) as being unpatentable over Motamedi et al in combination with Magda et al. Motamedi et al teach photodynamic therapy to treat cardiac arrhythmias. Magda et al. teach the use of MRI to locate and determine the efficacy of photodynamic therapy. It would have been obvious to the artisan of ordinary skill to employ the imaging method of Magda et al. in the treatment method of Motamedi et al, since this is an appropriate imaging method for tracking photodynamic therapy as taught by Magda et al. or, alternatively to employ the photodynamic therapy method of Motamedi et al in the method of Magda et al., since Magda et al. places no limits upon the specific type of photodynamic therapy that can be employed in the method, and to employ systemic infusion of the phototherapeutic agent, via the coronary artery, since this would bring the agent into contact with the ectopic cells most rapidly and with the greatest concentration, official notice of which is hereby taken, and to monitor oxygen or phosphate concentration, since this can show the progress of treatment as shown by Motamedi et al, thus producing a method such as claimed.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motamedi et al in combination with Magda et al. as applied to claim 21 above, and further in combination with Altman. Altman teaches ablating to isolate the pulmonary vein to treat arrhythmia. It would have been obvious to the artisan of ordinary skill to ablate tissue so as to isolate the pulmonary veins, since this is a source of arrhythmia, as taught by Altman, thus producing a method such as claimed.

Art Unit: 3739

Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motamedi et al in combination with Magda et al. as applied to claims 20-29, 31, 32, 37, 38, 48-50, 58, and 59 above, and further in combination with Leone. Leone teaches a porous balloon for delivering a photodynamic therapy substance. It would have been obvious to the artisan of ordinary skill to use a porous balloon to deliver the photodynamic therapy substances in the method of Motamedi et al, since Motamedi et al provide no particular delivery method, thus producing a method such as claimed.

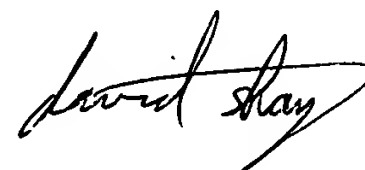
The examiner has reviewed applicants comments and has concluded that the Bryan reference does not contain the teaching attributed to it by the examiner.

Applicant's arguments with respect to claims 20-29, 31-41, 48-50, 58, and 59 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Shay/D1

August 19, 2004



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330